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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,565	05/04/2006	Marc Theisen	10191/4154	2955
26646 7590 03/20/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
ARTHUR JEANGLAUDE, GERTRUDE				
ART UNIT		PAPER NUMBER		
3661				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,565

Applicant(s)

THEISEN ET AL.

ExaminerGERTRUDE ARTHUR
JEANLAUD**Art Unit**

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12, 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

There is no support in the specification for the amended/added limitation "wherein the trigger signal will not cause the triggering of the occupant protection device unless the value in the z direction is below a threshold" in the claims above.

Claims 13-20, 22 are rejected for incorporating the deficiencies of their base claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-16, 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ide et al. (U.S. Patent No. 6,167,335) in view of (U.S. Patent No. 6,249,730).

Regarding claims 12, 21, Ide et al. disclose a method and device for triggering an occupant protection device in a vehicle as shown in Fig 1, comprising: detecting a first measured variable (40L) while simultaneously generating a corresponding first signal for indicating a necessity for triggering the occupant protection device; generating a corresponding second signal (See Fig. 1; abstract); calculating a trigger signal (via Sa, Sb, Sc) for triggering the occupant protection device as a function of the first signal and the second signal; and triggering the occupant protection device (via device #10 as shown in Fig.I) as a function of the calculated trigger signal. Ide et al. disclose reducing a level of the first signal as a function of at least one of the second signal and a vehicle model (See Fig. 16; col. 5, lines 56-67-col. 6, lines 1-24).

Ide et al. fail to specifically disclose detecting an acceleration value in a z direction while simultaneously generating a corresponding signal, wherein the z direction is a vertical direction. In an analogous art, Khairallah et al. disclose a vehicle occupant protection system and method utilizing z-axis central sensing wherein it discloses the z direction is a vertical direction generating signal (See abstract). At col. 4, lines 64-67 Khairallah et al. disclose the provision of a sensed vertical or Z-axis acceleration parameter the processing of the Z-axis parameter to provide a metric that is compared to a threshold value provides at least one sensing function. Khairallah et al. also disclose set Z safe = low (See Fig. 3 #204) and set Z safe = high (See Fig. 3 #212)

it is therefore obvious to one of ordinary skill in the art to compare a threshold value wherein the trigger signal will not cause the triggering of the occupant protection device unless the value in the z direction is below a threshold. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Ide et al. with that of Khairallah et al. by having a z direction as a vertical direction and for detecting an acceleration value in a z direction because it would help protect the occupant in a vehicle crash condition.

Regarding claims 13, 22, Ide et al. disclose the first measure variable includes at least one of an acceleration value in an x direction, an acceleration value in a y direction, and a measured variable that describes at least one of an area ahead of the vehicle and a vehicle surroundings (See abstract; fig.1; col. 2, lines 31-39).

Regarding claim 14, Ide et al. disclose performing a first detecting of acceleration value in at least one of an x direction and a y direction; performing a second detecting of at least one of an area ahead of the vehicle and a vehicle surroundings; simultaneously with at least one of the first detecting and the second detecting, simultaneously generating a third signal that is incorporated into the calculating of the trigger signal (See abstract; fig.1; col. 2, lines 31-39).

Regarding claim 15, Ide et al. disclose the detecting of the first measured variable is performed by an acceleration sensor; and the detecting of at least one of the area ahead of the vehicle and the vehicle surroundings are accomplished by one of a

radar sensor, a lidar sensor, a video sensor, and an ultrasonic sensor (See abstract; Fig.I).

Regarding claim 16, Ide et al. disclose the occupant protection device includes at least one of an airbag, an electrically operable side window, a sunroof, a seat, and one of a reversible seat belt tensioner and a pyrotechnical seat belt tensioner, and the airbag includes at least one of a driver airbag, a passenger airbag, a side airbag, a head airbag, a knee airbag, and a window airbag (See Fig. 9, Fig.13).

Regarding claim 18, Ide et al. disclose one of: only level peaks of the first signal are reduced as a function of the second signal, and the level of the first signal is reduced by a predefined value as a function of a level of the second signal (See Fig. 15A).

Regarding claim 19, Ide et al. disclose raising a trigger threshold for triggering the occupant protection device in the calculating of the trigger signal as a function of the second signal (See col. 4).

Regarding claim 20, Ide et al. disclose one of a raising of a trigger threshold and a lowering of a level of the first signal is carried out in a calculating of the trigger signal as a function of one of a characteristic-velocity of the vehicle and a relative velocity of the vehicle with respect to an obstacle (See col. 5, lines 56-67-col. 6, lines 1-24).

Response to Arguments

Applicant's arguments filed on 1/21/09 have been fully considered but they are not persuasive.

Regarding the 112 rejection, Applicant's representative cites a lot of court cases but fails to specifically show the support for a limitation as claimed therefore the 112 1st rejection is maintained.

The prior art discloses the amended limitation as discussed in the rejection. Ide et al. disclose the variation of values (comparison). More specifically, Ide et al. disclose a comparison of value and therefore is considered a reduction level between the signals (See col. 5, lines 56-67-col. 6, lines 1-24). It is considered that there is a reduction of the level peaks of a first signal as a function of a second signal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERTRUDE ARTHUR JEANGLAUD whose telephone number is (571)272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gertrude Arthur-Jeanglaude/
Primary Examiner, Art Unit 3661